

Shawnee Telephone Company

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Equality, IL 62934
Rosiclare, IL 62982

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Phone (800) 461-3956
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RECEIVED

NOV 17 1997

FCC MAIL ROOM

EX PARTE OR LATE FILED

November 11, 1997

Office of the Secretary
CC Docket No. 96-45
Federal Communications Commission
Room 22
1919 M Street, N. W.
Washington, D. C. 20554

RE: Certification as an Eligible Telecommunications Carrier

Dear Sirs:

Enclosed is a copy of the order from the Illinois Commerce Commission that designates Shawnee Telephone Company, Inc. as an eligible Telecommunications Carrier.

Sincerely,

James T. Coyle
President

No. of Copies rec'd _____
DATE FILED _____
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STATE OF ILLINOIS



ILLINOIS COMMERCE COMMISSION

RECEIVED

NOV 17 1997

FCC MAIL ROOM

November 7, 1997

Re: 97-0402

Dear Sir/Madam:

Enclosed is a certified copy of the Order entered by this Commission.

Sincerely,

A handwritten signature in cursive script that reads "Donna M. Caton".

Donna M. Caton
Chief Clerk

Enc.

STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

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NOV 17 1997

Shawnee Telephone Company
Application for Designation as an
Eligible Telecommunications
Carrier under 47 U.S.C. 214(e) of
the Telecommunications Act of
1996 for its service area consisting
of its Equality, Leamington, Cave-
in-Rock, Elizabethtown, Rosiclare,
Hicks, Eddyville, Simpson and
Renshaw exchanges.

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97-0402

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ORDER

By the Commission:

On September 8, 1997, Shawnee Telephone Company ("Applicant," "Company" or "Shawnee") filed an Application under Section 214(e)(2) of the Telecommunications Act of 1996 ("Act") and 4/C.F.R. 54.201 ("FCC's Rules") requesting that the Illinois Commerce Commission ("Commission") designate Applicant as an eligible telecommunications carrier for its service area consisting of its Equality, Leamington, Cave-in-Rock, Elizabethtown, Rosiclare, Hicks, Eddyville, Simpson and Renshaw exchanges. The Verified Statement of James T. Coyle, President of Applicant, was submitted in support of the Application.

On October 2, 1997, Staff of the Commission submitted the Verified Statements of Rasha Toppozada-Yow, Interim Section Chief, and S. Rick Gasparin, Economic Analyst, both of the Telecommunications Division, and Cindy Jackson, Program Assistant in the Consumer Services Division.

Pursuant to proper notice, this matter was called for hearing by a duly authorized Hearing Examiner of the Commission at its offices in Springfield, Illinois, on October 9, 1997. Appearances were entered by counsel for Applicant and for the Commission Staff. The parties waived cross-examination and the Verified Statements of Applicant and Staff were received in evidence. Counsel for Applicant stipulated that Applicant will comply with the additional advertising requirements in accordance with the recommendations of Ms. Jackson. The record was marked "Heard and Taken" on October 9, 1997.

Applicant's Position

Shawnee is a facilities-based incumbent local exchange telecommunications carrier and a common carrier, who provides telecommunications service in its nine exchanges. Boundary maps of these exchanges are on file with the Commission. Applicant qualifies as a "rural telephone company" as defined in 47 U.S.C. 153(47). Applicant's nine exchanges constitute its study area and its "service area" within the meaning of Section 224(e)(2) of the Act and Section 55.201 of the FCC's Rules.

Shawnee provides each of the following services as the FCC defines them throughout its service area:

1. Voice grade access to the public switched network;
2. Local usage;
3. Dual tone multi-frequency (touch tone) or its functional equivalent;
4. Single-party service or its functional equivalent;
5. Access to emergency services;
6. Access to operator services;
7. Access to interexchange services;
8. Access to directory assistance; and
9. Toll limitation for qualifying low-income consumers.

Concerning toll limitation, Shawnee agrees to provide toll blocking under which a customer may choose to have all toll number calling blocked from the customer's telephone, including intraLATA toll Calls, 1+ toll calls and 0+ toll calls. This service will allow continued access to 1-800 numbers, 1-888 numbers, other toll-free area codes, 0-(live, local) operator services, and 9-1-1 or E9-1-1 services available within Applicant's serving area. Parts of Hardin County within the Cave-In-Rock, Elizabethtown and Rosiclare exchanges and part of the Hicks exchange are without 9-1-1 or E9-1-1 service. In these areas, emergency service calls may be toll calls; and it is possible that access to these emergency services could be blocked. In order to address this potential problem, Applicant requests a waiver of the toll blocking requirements in the above exchanges until such time as 9-1-1 or E9-1-1 is in service in Hardin County.

Also, Shawnee does not presently provide "toll control" as defined in the FCC Rules. Contrary to the FCC's finding in Docket No. CC 96-45 (May 7, 1997 Report and Order on the Federal-State Joint Board on Universal Service, Pa. 82), Applicant is not aware that any telecommunications carriers are deploying toll limitation services in public telecommunications networks. Applicant does not bill for all of the intraLATA or interLATA toll service providers doing business in its service area and has no method for limiting toll acquired from service providers for which it does not bill. Shawnee does not collect toll usage information in "real time" and since it is unable to monitor different toll rates applicable to different types of toll usage, it has no reliable way of correlating toll usage to a customer's requested toll limit. Applicant has agreed to try and make

itself aware of any reliable method of toll control that becomes available in the future. Applicant seeks a three-year waiver of the toll control requirement.

Applicant also agrees not to disconnect Lifeline Service for non-payment of toll charges and will not require a service deposit in order to initiate Lifeline Service if the low-income consumer voluntarily elects toll blocking where it is available.

Applicant agrees to comply with rules and requirements for advertising the availability of services designated for support and the charges and rules related to universal service support for low-income consumers when such rules are adopted by the Commission. Shawnee has also agreed to advertise the availability of the eligible services and charges and will provide information regarding universal service support for low-income consumers in newspapers of general circulation within its service area at least once quarterly, through a bill insert to its customers at least once a year, and through a notice in the next edition (based on publishing deadline) of its White Pages telephone directory.

Staff's Position

Staff has reviewed Shawnee's Application and recommends that it be designated as an eligible telecommunications carrier under Section 214(e)(2) for its service area consisting of its nine exchanges.

Ms. Jackson reviewed the Application with regard to FCC requirements concerning advertising, offering Lifeline and Link Up support, disconnection for non-payment of toll charges, deposits for toll limitation service, and toll blocking in areas without 9-1-1 or E9-1-1 service. Ms. Jackson found that Applicant has met most FCC requirements in these areas. She supported Applicant's request for waiver from the FCC's toll blocking requirement in those areas where 9-1-1 or E9-1-1 is not available until such time as one of these services is operational. Ms. Jackson also requested that Applicant make a commitment to supplement its advertising guidelines by adding notification letters to governmental agencies containing information regarding programs available to low-income consumers. As previously noted, Applicant has agreed to do so.

Mr. Gasparin examined Shawnee's Application from a technical perspective as it relates to voice grade access and the modification of frequency ranges. He explained that the FCC has modified the traditional voice grade access frequency range in its decision in CC Docket No. 96-45 adopted November 7, 1996. He concluded that the range and effective bandwidth used for voice communications by Illinois carriers is adequate for the provisioning of voice service and meets the new FCC requirements. Mr. Gasparin also explained that the current bandwidth supporting voice communications requirements of the public switched network is quite adequate and meets the current goals of the FCC. He cited the FCC's finding that voice grade, not

higher bandwidth services and data transmission capabilities, is the appropriate goal of universal service at this time (Par. 64).

Ms. Toppozada-Yow summarized the goals and requirements of certification for eligible telecommunications carriers within particular service areas. She explained that certification was necessary for the Company to be eligible for federal universal service funds and that, as a rural carrier, the Company's service area was defined to be identical to its study area, which is its entire serving area. Ms. Toppozada-Yow explained that the Commission could in the future petition the FCC for a modification of Applicant's service area, and she recommended that the Commission reserve this right in the Order in this proceeding. She also concluded that the Company met the requirement that it uses its own facilities in at least some part for the provision of universal service.

Ms. Toppozada-Yow evaluated the Company's provision of the services supported by universal service. Based on her review of the Company's Verified Statement and her discussions with Staff witness Gasparin, Ms. Toppozada-Yow concluded that the Company complied with the requirements for providing voice grade access to the public switched network; dual tone multi-frequency signaling; single party service; access to emergency services, operator services, interexchange services and directory assistance; and low-income service requirements.

As to local usage, Ms. Toppozada-Yow concluded that the Company provides this service; however, she pointed out that the FCC has not yet specified what level of local usage universal service should support. Therefore, the Order in this case should direct the Company to meet the level of service ultimately required by the FCC and should require it to provide evidence of its compliance upon the Commission's request. The company has agreed to do this.

As to toll limitation, Ms. Toppozada-Yow concluded that the Company is capable of providing adequate toll blocking in its exchanges. However, for reasons that Ms. Toppozada-Yow explained as applying to all carriers, the Company cannot presently comply with the toll control service requirements of the FCC. Ms. Toppozada-Yow recommended that the Commission grant Applicant the three-year waiver of the toll control requirements as the Company has requested. She also recommended that, consistent with the Company's offer, the Commission direct the Company to make itself aware of any reliable method of toll control that becomes available within the telecommunications industry. Ms. Toppozada-Yow also noted that some of Applicant's exchanges serve Hardin County, which does not have either 9-1-1 or E9-1-1 services. Since some emergency services for customers in that county may require toll calls, Ms. Toppozada-Yow recommended that the Commission grant the Company's request for a waiver of toll blocking requirement for customers in Hardin County until such time as that county implements 9-1-1 or E9-1-1 services.

In summary, Ms. Toppozada-Yow recommended that the Commission approve the Company's Application and designate it as an eligible telecommunications carrier for the service area consisting of its nine exchanges. She recommended that the Commission grant the Company the waivers it requested with regard to toll limitation in its exchanges and toll blocking for customers in Hardin County. She also recommended that the Commission direct the Company to comply with the local usage definitions which the FCC is expected to publish by the end of 1997 and that the Commission direct the Company to withdraw its toll control service waiver once a reliable method of toll control becomes available within the telecommunications industry. Ms. Toppozada-Yow also concurred in Ms. Jackson's recommendation that the Commission should direct Applicant to adopt the advertising requirements specified in Staff witness Jackson's Verified Statement.

Conclusion

Pursuant to the Act and the FCC's Rules, Applicant has filed to be designated as an eligible telecommunications carrier for its service area consisting of its Equality, Leamington, Cave-in-Rock, Elizabethtown, Rosiclare, Hicks, Eddyville, Simpson and Renshaw exchanges. Staff supports the requested designation and the granting of the limited waivers sought by Applicant. The Commission concurs and finds that Shawnee should be designated an eligible telecommunications carrier for its service area consisting of the nine exchanges listed above and granted the requested waivers as discussed below.

The record demonstrates that Applicant meets the requirements of Section 214(e)(1) of the Act to be designated an eligible carrier. Shawnee is a rural telephone company within the meaning of the Act and the FCC's Rules. As a rural telephone company, Shawnee's entire service area is its appropriate designated service area under the FCC's Rules. As observed by Ms. Toppozada-Yow, the Commission in the future may petition the FCC for a modification of Shawnee's service area if the Commission believes the Rural Service Area, as defined in this Order, unreasonably limits a new entrant's ability to be designated an eligible telecommunications carrier or creates a barrier to entry.

With the exception of toll limitation for qualifying low-income consumers as discussed below, the record demonstrates that Applicant provides each and all of the required services as designated and defined by the FCC. While the Applicant has indicated its willingness to offer local usage as required by the FCC, the FCC has yet to specify the amount of local usage to be supported by federal universal service mechanisms. While the Commission accepts Shawnee's representation that it will provide the required amount of local usage as determined by the FCC, Applicant should be prepared to demonstrate its compliance with this requirement upon request.

As discussed above in describing the positions of Applicant and the Staff, Shawnee cannot presently provide toll control to low-income subscribers in the manner

described in the FCC's requirements. The inability to provide toll control is not unique to Applicant but exists with other telecommunications carriers in Illinois. If and/or when a reliable method of toll control will become available is not presently known. The Commission finds that exceptional circumstances do exist and Applicant's request for a three-year waiver (the calendar years 1998, 1999 and 2000) of the requirement to provide toll control should be granted.

Applicant has stated that it will endeavor to make itself aware of any reliable method of toll control that becomes available within the telecommunications industry. Staff has recommended that Applicant withdraw its request for the toll control waiver if a reliable method of toll control becomes available within the industry during the three-year waiver period. At this point, there are too many unknowns concerning solutions that might allow toll control to be provided, including the ability of any company to deploy the solution and the associated costs. The inability to provide toll control is widespread within the industry. Rather than requiring Applicant to withdraw its request for a waiver, the Commission directs Applicant to expeditiously notify the Staff if Applicant becomes aware of the availability of a reliable methodology of providing toll control. The Staff, together with Applicant and other members of the industry, can then investigate the methodology, whether exceptional circumstances exist, and whether it is appropriate for Applicant and other telecommunications carriers in Illinois to implement and deploy the toll control methodology.

Applicant has the ability to provide toll blocking as defined by the FCC. As discussed by Ms. Jackson and Ms. Topozada-Yow, however, toll blocking could result in calls to emergency services being blocked in areas where neither 9-1-1 or E9-1-1 are in service. Applicant's Cave-in-Rock, Elizabethtown and Rosiclare exchanges and part of its Hicks exchange serve parts of Hardin County, Illinois where neither 9-1-1 nor E9-1-1 are in service. Applicant has requested a waiver of the toll blocking requirement in these exchanges in order to avoid blocking access to emergency services until such time as 9-1-1 or E9-1-1 is in service in Hardin County. This request should be granted in the interest of public safety, continued access to emergency services, and based upon the exceptional circumstances demonstrated in this record.

The FCC's Rules require an eligible carrier to advertise the availability of services and charges using media of general distribution. The Commission will initiate a proceeding in the near future to establish requirements applicable to all carriers who have or seek to be designated as eligible telecommunications carriers. Applicant has indicated that it will comply with the Commission's advertising requirements when adopted.

Until such advertising requirements are adopted by the Commission, Applicant has committed to advertise the availability of eligible services and charges and to provide information regarding universal service support for low-income customers in newspapers of general circulation within its service area, at least once quarterly; by means of a bill insert going to all customers, at least once annually; and through a

notice in the next edition (based on publishing deadline) of its White Pages telephone directory. Staff recommended that Applicant should also provide a letter of notification of low-income programs to the director of all municipal, state or federal governmental agencies within its service area whose clientele are likely to benefit from any of these programs. Applicant agreed to comply with the additional advertising requirement recommended by Staff. The Commission finds these advertising commitments to be reasonable and appropriate and consistent with the FCC's Rules.

As set forth in the Verified Statements filed by Applicant and Staff, Shawnee has committed to comply with all other requirements contained in the Act and the FCC's Rules to be designated as an eligible telecommunications carrier. The granting of Shawnee's Application is consistent with the Act and FCC's Rules and is in the public interest.

The Commission, having considered the entire record herein and being fully advised in the premises, is of the opinion and finds that:

- (1) Shawnee Telephone Company is a facilities-based incumbent local exchange telecommunications service provider and a common carrier;
- (2) the Commission has jurisdiction over the parties hereto and subject matter hereof;
- (3) the recitals of fact and conclusions of law set forth in the prefatory portion of this Order are supported by the evidence of record and are hereby adopted as findings of fact and conclusions of law;
- (4) the designation of Shawnee Telephone Company as an eligible telecommunications carrier for its service area consisting of its Equality, Leamington, Cave-in-Rock, Elizabethtown, Rosiclare, Hicks, Eddyville, Simpson and Renshaw exchanges is consistent with the Act and the FCC's Rules and is in the public interest;
- (5) based upon exceptional circumstances, Shawnee Telephone Company should be granted a waiver of the requirement to provide toll control service as defined by the FCC to low-income customers for the calendar years 1998, 1999 and 2000;
- (6) in the interest of public safety, continued access to emergency services, and based upon the exceptional circumstances demonstrated in this record, Shawnee Telephone Company should be granted a waiver of the requirement to provide toll blocking service as defined by the FCC in the Cave-in-Rock, Elizabethtown and Rosiclare exchanges and part of its Hicks exchange to low-income customers until such time as 9-1-1 or E9-1-1 is in service in Hardin County, Illinois;

- (7) Shawnee Telephone Company should comply with the various requirements associated with being a designated eligible telecommunications carrier as set forth in the FCC's Rules and the additional requirements and commitments described in the prefatory portion of this Order.

IT IS THEREFORE ORDERED by the Illinois Commerce Commission that Shawnee Telephone Company is designated an eligible telecommunications carrier under 47 U.S.C. 214(e) of the Telecommunications Act of 1996 for its service area consisting of its Equality, Leamington, Cave-in-Rock, Elizabethtown, Rosiclare, Hicks, Eddyville, Simpson and Renshaw exchanges.

IT IS FURTHER ORDERED that Shawnee Telephone Company is granted a waiver of the requirement to provide toll control service as defined by the FCC to low-income customers for the calendar years 1998, 1999 and 2000.

IT IS FURTHER ORDERED that Shawnee Telephone Company is granted a waiver of the requirement to provide toll blocking service as defined by the FCC to low-income customers in the Cave-in-Rock, Elizabethtown and Rosiclare exchanges and part of its Hicks exchange until such time as 9-1-1 or E9-1-1 is in service in Hardin County, Illinois.

IT IS FURTHER ORDERED that Shawnee Telephone Company should comply with the requirements of Finding (7) above.

IT IS FURTHER ORDERED that subject to the provisions of Section 10-113 of the Public Utilities Act and 83 Ill. Adm. Code 200.880, this Order is final; it is not subject to the Administrative Review Law.

By order of the Commission this 5th day of November, 1997.

(SIGNED) DAN MILLER

Chairman

(S E A L)

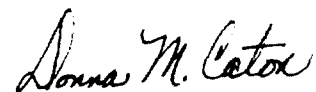
STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION
CERTIFICATE

Re: 97-0402

I, DONNA M. CATON, do hereby certify that I am Chief Clerk of the Illinois Commerce Commission of the State of Illinois and keeper of the records and seal of said Commission with respect to all matters except those governed by Chapters 18a and 18c of The Illinois Vehicle Code.

I further certify that the above and foregoing is a true, correct and complete copy of the Order made and entered of record by said Commission on November 5, 1997.

Given under my hand and seal of said Illinois Commerce Commission at Springfield, Illinois, on November 7, 1997.



Chief Clerk